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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,022	10/10/2003	Paul O. Zamora	30817-1012	5302
5179	7590	04/13/2007	EXAMINER	
PEACOCK MYERS, P.C. 201 THIRD STREET, N.W. SUITE 1340 ALBUQUERQUE, NM 87102			MAIER, LEIGH C	
ART UNIT		PAPER NUMBER		
1623				
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	04/13/2007	PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/684,022	ZAMORA, PAUL O.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Leigh C. Maier	1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 2/16/07.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 4-7,12,21,22,25-28 and 34-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 4-7,12,21,22,25-28 and 34-42 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of the Claims***

Claims 1-4, 8-11, 13-20, 23, 24 and 29-33 have been canceled. Claims 4-7, 12, 21, 22, 25-28 and 34-42 are pending. Any rejection or objection not expressly repeated has been withdrawn. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Double Patenting***

Claims 4-7, 12, 21, 22, 25-28 and 34-42 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 19-33 of U.S. Patent No. 6,596,699. Although the conflicting claims are not identical, they are not patentably distinct from each other.

The claims of '699 are drawn to a medical device with a surface contacting bodily fluids coated with a silyl-heparin covalent complex with a condensate comprising a polycation and nucleic acid directly and non-covalently bound to the heparin. In this case, the nucleic acid is a bioactive molecule. It would be obvious to one of ordinary skill to select any of the claimed devices, one of which is a graft, which is a sub-genus of "wound dressing." Regarding claims 21 and 22, it would be within the scope of the artisan to optimize the value of these variables through routine experimentation. Claims 21-29 are drawn to the preparation of these devices. Regarding claims 27 and 28, the claims do not include the attachment of a second bioactive molecule, such as an antibiotic. However, it would be within the scope of the artisan to add and

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additional bioactive molecule for the combined effects. Regarding antibiotics, the specification expressly describes an antibiotic as a preferred bioactive molecule. The claims do not recite a method of use. However, the use of the particularly claimed medical devices would be obvious to one of ordinary skill.

***Examiner's hours, phone & fax numbers***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh Maier whose telephone number is (571) 272-0656. The examiner can normally be reached on Monday, Wednesday and Thursday 7:00 to 3:30 (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Anna Jiang (571) 272-0627, may be contacted. The fax number for Group 1600, Art Unit 1623 is (571) 273-8300.

Visit the U.S. PTO's site on the World Wide Web at <http://www.uspto.gov>. This site contains lots of valuable information including the latest PTO fees, downloadable forms, basic search capabilities and much more. Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

*Leigh C. Maier*

Leigh C. Maier  
Primary Examiner  
April 11, 2007